

Message Text

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ACTION ARA-20

INFO OCT-01 ISO-00 L-03 AID-20 CIAE-00 COME-00 EB-11

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TO SECSTATE WASHDC 3541

LIMITED OFFICIAL USE BUENOS AIRES 6655

E.O. 11652: N/A

TAGS: EIND, AR

SUBJ: SWIFT DE LA PLATA

REF: A. BA 5963, 11/9/71; B. BA 3436, 6/7/72

1. SUPREME COURT RULED SEPT 4 ON TWO ASPECTS OF SWIFT DE LA PLATA BANKRUPTCY CASE PENDING SINCE SEPT 1972. (A) COURT UPHELD DECISION OF LOWER COURT DECLARING SWIFT BANKRUPT. (REF A). THIS DECISION HAD ALSO BEEN CONFIRMED BY COMMERCIAL COURT OF APPEALS (REF B). (B) SUPREME COURT ALSO UPHELD LOWER COURT DECISION EXTENDING LIABILITY FOR SWIFT'S DEBTS TO OTHER DELTEC COMPANIES, AND EXTENDED THIS LIABILITY TO PARENT COMPANY, DELTEC INTERNATIONAL LIMITED. ORIGINAL DECISION BY LOWER COURT HAD EXTENDED SWIFT'S LIABILITY ONLY TO OTHER DELTEC ASSETS IN ARGENTINA. IN THIS DECISION, SUPREME COURT RULED AGAINST COMMERCIAL COURT OF APPEALS, WHICH HAD OVERTURNED LOWER COURT DECISION ON THIS POINT ON TECHNICAL GROUNDS (REF B).

2. FOLLOWING SUPREME COURT RULING, LOWER COURT JUDGE SALVADOR LOZADA ON SEPT 6 DECREED BANKRUPTCY OF ALL KNOWN MEMBERS OF DELTEC GROUP OF COMPANIES. FOLLOWING 13 COMPANIES NAMED IN
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LOZADA'S RULING:

DELTEC INTERNATIONAL LIMITED
DELTEC BANKING CORPORATION, LTD.
DELTEC ARGENTINA S.A. FINANCIERA Y M.
COMPLEJO AVICOLA IBRI S.A.
PROVITA, S.A.I.F.
COMPANIA DE NAVEGACION GANADERA Y COMERCIAL
"GANADOS S.A."
COMPANIE DEL PLATA S.A.F. Y C.
INGENIO LA ESPERANZA S.A.
S.A. DE INVERSIONES SUDAMERICANAS
GESTORA DEL SUD, S.A.
VALOREGA S.A.
ARGENTARIA S.A. FINANCIERA
ARGEMIN S.A.

FIRST TWO COMPANIES NAMED ARE UNDERSTOOD TO BE "PARENT"
COMPANIES OF DELTEC GROUP IN ARGENTINA AND ARE NOT KNOWN
TO HAVE LEGAL OR OTHER RESIDENCE IN ARGENTINA.

3. SUPREME COURT DECISION REPORTEDLY BASED ON COURTS FINDING
THAT INTEREST AND ACTIVITIES OF COMPANIES IN GROUP SO INTERTWINED
THAT GROUP MUST BE CONSIDERED SINGLE ECONOMIC UNIT, IN SPITE OF
LEGAL STATUS AS SEPARATE CORPORATIONS. LOZADA DECISION, WHICH
SAID TO BE BASED ON SUPREME COURT FINDING AS WELL AS ADDITIONAL
INFORMATION PROVIDED BY NATIONAL MEAT BOARD AND TAX OFFICE,
CARRIES THIS LOGIC ONE STEP FURTHER BY ASSERTING THAT SINCE
DELTEC NOW FOUND TO BE SINGLE ENTITY, IT CANNOT BE CONSIDERED
PARTIALLY BANKRUPT BUT MUST BE BANKRUPT IN ITS ENTIRETY.

4. EVEN TAKEN ALONE, SUPREME COURT DECISION APPEARS TO CREATE
SERIOUS PRECEDENT IN BREAKING DOWN THE CONCEPT OF LIMITED LIA-
BILITY BASIC TO THE CORPORATE FORM OF ORGANIZATION. LOZADA'S
RULING GOES EVEN FURTHER IN THIS REGARD, BUT IT IS OF COURSE
STILL SUBJECT TO APPEAL.

5. EMBASSY WILL REPORT MORE FULLY AS FURTHER DETAILS BECOME
KNOWN.
LODGE

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